

876 IAC 1-1-40 Incompetent practice

Authority: IC 25-34.1-2-5

Affected: IC 22-9; IC 25-34.1

Sec. 40. Incompetent practice of real estate includes the following:

- (a) Failing to account for and remit any funds or documents belonging to others that come into the licensee's possession.
- (b) Accepting or offering any inducement or rebate for the purpose of obtaining a listing or inducing a sale, where full disclosure in writing has not been given to all parties to the transaction at the time of the offer or acceptance.
- (c) Receiving, accepting, or giving an undisclosed direct profit on expenditures made in conjunction with a real estate transaction.
- (d) Acting in dual capacity of licensee and undisclosed client in any transaction.
- (e) Guaranteeing, authorizing, or permitting any person to guarantee future profits that may result from the resale of real property.
- (f) Listing or offering real property for sale, exchange, option, rent, or lease without the written consent of, or on any terms other than those authorized by, the owner or the owner's authorized agent.
- (g) Inducing any party to a listing contract or a contract of sale to breach such contract for the purpose of substituting a new contract with another person.
- (h) Accepting employment or compensation that is contingent upon the issuance of an appraisal report on real estate at a predetermined value.
- (i) Issuing an appraisal report on real property in which the licensee fails to disclose his interest in that property in writing to all parties.
- (j) Soliciting and/or negotiating a listing contract, a sale, exchange, or lease of real property directly with an owner or lessor if the licensee knows that the owner has a written contract in connection with the property that guarantees an exclusive agency to another licensee unless the owner initiates the action in writing prior to expiration of the listing.
- (k) As a licensee representing, or attempting to represent, a principal broker other than the principal broker with whom the licensee is associated.
- (l) Paying a commission to or otherwise compensating a person who is not licensed for performing the services that, by law, require a license.
- (m) Requesting a license by a principal broker if that principal broker does not intend to be associated with that licensee.
- (n) Committing any act of fraud or misrepresentation while engaged in acts that, by law, require a license.
- (o) Otherwise violating IC 25-34.1 or this title.
- (p) Having been convicted of a felony or misdemeanor if the acts on which that conviction are based have a direct bearing on whether or not the person should be entrusted to serve the public as a licensee.
- (q) Having been finally determined to have engaged in an unlawful discriminatory practice under the Indiana Civil Rights Act, IC 22-9.
- (r) A broker, knowingly allowing any of its employees or representatives to utilize the premises of a real estate school for recruiting purposes in violation of 876 IAC 2-5-1.
- (s) Failing to cooperate with an investigation by either the office of the attorney general or the professional licensing agency into potential violations of this act. Acts considered failing to cooperate may include a knowing failure on the part of the licensee to:**
 - (1) respond to correspondence that is not returned to the sender;**
 - (2) produce requested documentation that is required to be maintained by the licensee and is available at the time of the request; or**
 - (3) appear at scheduled conferences or interviews;****directly related to the investigation of a complaint, and without reasonable cause.**

876 IAC 3-2-11 Investigation of appraisals and file records

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-2-5

Sec. 11. An appraiser shall provide access to all appraisal records and related documents upon request by Indiana professional licensing agency compliance officers **or investigative staff of the office of the attorney general** for investigative purposes. Indiana professional licensing agency compliance officers **and investigative staff of the office of the attorney general** shall have the right to inspect, review, and copy these documents.